

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN BLANC,

Plaintiff,

06 Civ. 1626 (CLB)

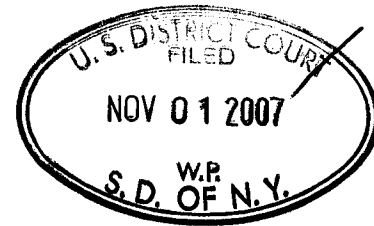
- against -

Memorandum and Order

PALISADES COLLECTION, LLP and
PRESSLER and PRESSLER,

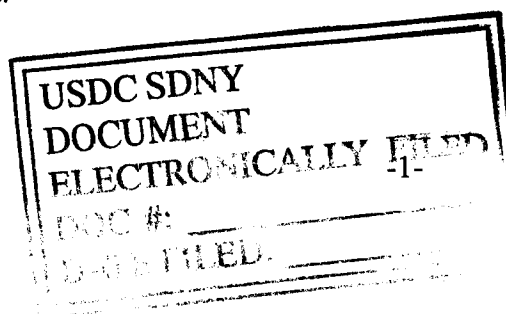
Defendant.

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Brieant, J.



Before this Court for consideration in this action under the Fair Debt Collection Practices Act, is the Report and Recommendation of the Hon. Lisa Margaret Smith, United States Magistrate Judge, filed October 5, 2007, and Objections (Doc. 36) filed October 24, 2007 by Plaintiff. Familiarity on the part of the reader with both documents is assumed.

The Magistrate Judge recommended that Plaintiff's Motion for Summary Judgment (Doc. 27) filed June 4, 2007, be denied, essentially because she concluded that Defendant has raised a genuine issue of disputed fact as to whether the debt sought to be collected was improperly characterized in reporting it to credit bureaus as an "open account" or a "factoring company account." The Magistrate Judge based this conclusion at least in part on her conclusion that this Court's prior decision in litigation brought in this Court by Noelle Blanc, Plaintiff's wife, is not preclusive with respect to this case, because this Court did not expressly so find. In this she is correct.



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The Magistrate Judge also found a genuine issue of disputed fact as to whether Palisades sent Plaintiff a verification of the debt after receiving notice of the dispute from E-Oscar. This Court agrees.

The Objections are overruled. The Report and Recommendation is adopted as the decision of this Court. The motion (Doc. 27) is denied.

Counsel shall confer with the Magistrate Judge who will advise this Court when the case is trial ready. Counsel should also discuss and consider whether they wish to have a consent trial before the Magistrate Judge on a date certain.

SO ORDERED.

Dated: White Plains, New York
November 1, 2007



Charles L. Briant, U.S.D.J.